IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 16233 of 2007(G)

PETITIONER:

V.C. ELIAS,
VARAPPATHUKUZHIYIL HOUSE, P.O. KILLIMANGALAM,
THRISSUR DISTRICT.

BY ADV. SRI.P.BHASKARAN

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, PUBLIC WORKS DEPT.,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, THRISSUR.

3. THE TAHSILDAR, THALAPPILLY.

4. THE ASSISTANT EXECUTIVE ENGINEER,
PWD ROADS DIVISION OFFICE, WADAKANCHERRY,
THRISSUR DISTRICT.

BY GOVERNMENT PLEADER SRI. M.R. SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAYDELIVERED THE FOLLOWING:

W.P.(C)NO. 16233/2007.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE ASSIGNMENT DEED NO.4555/95 DATED 16.10.1995 OF WADAKANCHERY SUB REGISTRY.

EXT.P2: TRUE COPY OF THE ORDER BY WHICH SANCTION WAS ACCORDED TO THE PETITIONER FOR THE CONSTRUCTION DATED 20.7.1996.

EXT.P3: TRUE COPY OF THE NOTICE DATED 26.5.2007 SERVED ON THE PETITIONER UNDER RULE 13A OF KERALA LAND CONSERVANCY RULES.

EXT.P4: TRUE COPY OF THE REPRESENTATION DATED 28.5.2007 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO. 16233 OF 2007

DATED THIS THE 25th DAY OF JULY, 2007

JUDGMENT

The petitioner submits that the petitioner was granted permission by Ext.P2 to construct a retaining wall on either side of the drain in front of the petitioner's property and to provide slabs over the same so as to have vehicular access to the petitioner's property subject to the conditions mentioned therein.

2. The petitioner has approached this Court when by Ext.P3 notice under the Kerala Land conservancy Rules he was required to demolish the slabs on the ground that the same is on Government land. The petitioner himself admits that while this writ petition was pending, the slabs have been demolished by the respondents. The petitioner now submits that the said demolition is illegal and therefore he would be entitled to sue for damages.

I am of opinion that, that can only be through a properly constituted suit before the appropriate Civil Court. Therefore, without prejudice to the right of the petitioner to seek his remedies by way of filing a suit, this writ petition is closed.

S. SIRI JAGAN, JUDGE

Acd